

Crimes (Computers) Bill

EXPLANATORY MEMORANDUM

Clause 1 sets out the purposes of the Act.

Clause 2 states that the Act comes into operation when proclaimed.

Clause 3 states that the *Crimes Act* 1958 is called the Principal Act.

Clause 4 deals with the application of new section 80A of the Crimes Act to theft offences.

Clause 5 inserts a new section 80A in the Crimes Act. The new section gives certain extra-territorial application to offences of theft, fraud and blackmail if there is a real and substantial link between the relevant conduct and Victoria. This test was applied by the Supreme Court of Canada in *Libman v R* [1986] LRC (Crim) 86.

Clause 6 amends the definition of “deception” in section 81 of the Crimes Act to include acts done with the intention of causing computer systems or certain machines to make unauthorised responses. The definition of “deception” applies to offences of obtaining property by deception (s. 81), obtaining financial advantage by deception (s. 82) and procuring the execution of a valuable security by deception (s. 86 (2)).

Clause 7 inserts a new section 83A in the Crimes Act. The section creates five new offences relating to the falsification of “documents” (“document” is given a wide meaning by s. 38 of the *Interpretation of Legislation Act* 1984).

New Section 83A (1) creates an offence of making a false document in certain circumstances.

New Section 83A (2) creates an offence of using a false document in certain circumstances.

New Section 83A (3) creates an offence of making a copy of a false document in certain circumstances.

New Section 83A (4) creates an offence of using a copy of a false document in certain circumstances.

New Section 83A (5) creates an offence of possessing a false document in certain circumstances.

New Section 83A (6) sets out the circumstances in which a document is false for the purposes of the section.

New Section 83A (7) provides that altering a document so as to make it false in any respect is to be treated as making a false document for the purposes of the section.

New Section 83A (8) defines when an act or omission is “to a person’s prejudice” for the purposes of the section.

New Section 83A (9) deals with circumstances in which the person causes a machine to respond to a document or copy in certain ways.

New Section 83A (10) provides that in proceedings for an offence under the section, it is not necessary to allege that the accused intended to induce a particular person to

accept a false document as genuine or a copy of a false document as a copy of a genuine one.

Clause 8 increases penalties for secret commissions offences. The new maximum penalties are imprisonment for 10 years or a fine of 1,000 penalty units (ie., at present, \$100,000).

Clause 9 creates an offence of computer trespass. The offence consists of gaining access to or entering a computer system or part of a computer system without lawful authority.